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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,577	03/25/2004	Kenji Kaneko	P25048	5557
7055	7590	06/30/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			ALSOMIRI, ISAM A	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/808,577	<b>Applicant(s)</b> KANEKO ET AL.	
	<b>Examiner</b> Isam Alsomiri	<b>Art Unit</b> 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/938,663.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

*[Handwritten signature]*

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. US 5,877,892 in view of Kusaka US005578812A.**

**Re claim 1**, Nakamura discloses in figures 1-16, a surveying instrument comprising: a sighting telescope optical system through which a sighting object can be sighted (see Abstract, col. 7 lines 55-61); a distance measuring system which measures a distance to the sighting object; and a phase detection autofocus system which detects a focus state of an image of the sighting object on a reference focal plane (see figure 14, col 6 lines 50-67); and an AF driver 30 which moves a focusing lens 12 of the sighting telescope optical system to bring the sighting object into focus in accordance with an output of the phase detection autofocus system (see col. 7 lines 5-12); Nakamura is silent about teaching a selector for setting a consecutive distance measurement mode in which said distance measuring system performs plural measurements of distances to said sighting object; and a controller which coordinates focusing operations of said AF driver with distance measuring operations of said distance measuring system in the consecutive distance measurement mode. Kusaka teaches an auto focus system which include a selector for setting a consecutive AF,

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which include the claimed controller and performs plural measurements of distances to the object (see col. 19 line 48 – col. 21 line 54). It would have been obvious to modify Nakamura's system to include a selection for consecutive AF for moving objects which require constant focusing.

**Re claim 2**, Kusaka teaches the consecutive AF mode and operation are initiated by a single push operation of a start button (inherent by the selection device 70) (see col. 19 lines 25-47).

**Re claim 3**, Nakamura teaches the distance measuring system and the AF driver operate consecutively upon a single-push operation of the start button.

**Re claim 4**, it is inherent that the consecutive autofocus mode starts at the same time as the consecutive distance measurement, because the autofocus is based on the distance to the target.

**Re claim 5**, Nakamura teaches a controller which drives the AF driver to move the focusing lens to a predetermined position thereof so that an object at a predetermined distance is in focus when the sighting object is unable to be brought into focus in the case of a measurement mode in which a target is set at an arbitrary point.

**Re claim 6**, Nakamura teaches the surveying instrument is a total station (see col. 14 lines 26-30).

**Re claim 7**, Nakamura teaches the distance measuring system comprises a distance meter having a light-emitting element and a light-receiving element (see col. 14 lines 45-48).

**Re claim 8**, Nakamura teaches the phase detection autofocus system comprises a pair of line sensors (see col. 6 lines 61-62).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isam Alsomiri whose telephone number is 571-272-6970. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Isam Alsomiri

June 24, 2005

A handwritten signature in black ink, appearing to read "Thomas H. Tarcza". The signature is fluid and cursive, with the first name "Thomas" being more prominent.

THOMAS H. TARCZA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600